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21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
23 SAN FRANCISCO DIVISION

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IN RE CONNETICS CORP.
SECURITIES LITIGATION

Case No. C 07-02940 SI

**OPPOSITION OF DEFENDANTS
CONNETICS CORP., JOHN L. HIGGINS,
LINCOLN KROCHMAL, C. GREGORY
VONTZ, AND THOMAS G. WIGGANS TO
LEAVE TO FILE NOTICE OF
SUPPLEMENTAL AUTHORITY**

1 The Court should deny Plaintiff's Request for Leave to File Notice of Supplemental
 2 Authority because plaintiff has violated the clear terms of Civil Local Rule 7-3(d). That Rule
 3 provides that a party must provide a citation to "the new opinion – *without argument*." See Civ.
 4 L.R. 7-3(d) (emphasis added). Plaintiff's three-page analysis of the judicial opinion that it seeks
 5 leave to bring to the Court's attention does not meet the "without argument" requirement. In fact,
 6 plaintiff reargues the very issues that it addressed in its 40 page opposition memorandum and
 7 during its one hour oral argument. See Plaintiff's Notice of Supplemental Authority at 1-3.
 8 Because plaintiff improperly attempts to use its notice of supplemental authority as an
 9 opportunity to continue arguing its case, the Court should deny plaintiff's motion. The Connetics
 10 Defendants do not object to plaintiff seeking leave to file a notice of supplemental authority that
 11 complies with Civil Local Rule 7-3(d). However, plaintiff has not filed such a notice to date.¹

12 Dated: January 29, 2008

FENWICK & WEST LLP

13
 14 By: /s/
 15 Emily St. John Cohen

16 Attorneys for Defendants Connetics Corp.,
 17 John L. Higgins, Lincoln Krochmal,
 18 C. Gregory Vontz, and Thomas G. Wiggans

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 27 ¹ In any event, plaintiff has mischaracterized the relevance of the authority it cites. The complaint at issue here is
 28 very different than the complaint at issue in *Makor Issues & Rights Ltd. v. Tellabs Inc.*, 2008 U.S. App. LEXIS 975
 (7th Cir. Jan. 17, 2008). In the event that the Court would like further argument on that point, the Connetics
 Defendants are prepared to file a supplemental memorandum of law.

PROOF OF SERVICE

The undersigned declares as follows:

I am a citizen of the United States and employed in San Francisco County, State of California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Fenwick & West LLP, San Francisco California, 555 California Street, 12th Floor San Francisco, California 94104. On the date set forth below, I served a copy of the following document(s):

OPPOSITION OF DEFENDANTS CONNETICS CORP., JOHN L. HIGGINS, LINCOLN KROCHMAL, C. GREGORY VONTZ, AND THOMAS G. WIGGANS TO LEAD PLAINTIFF'S REQUEST FOR LEAVE TO FILE NOTICE OF SUPPLEMENTAL AUTHORITY

on the interested parties in the subject action by placing a true copy thereof as indicated below, addressed as follows:

Victor E. Zak
24 Oakmont Road
Newton Center, MA 02459

☒ **BY US MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.

I declare under penalty of perjury under the laws of the State of California and the United States that the above is true and correct.

Date: January 29, 2008

_____/s/ Carol Galvin_____
Carol Galvin